

**BEFORE THE HARYANA REAL ESTATE REGULATORY
AUTHORITY, GURUGRAM**

Complaint no. : 606 of 2021
Date of first hearing : 01.03.2021
Date of decision : 01.03.2021

HARERA, Gurugram
R/o New PWD Rest House, Civil Lines,
Gurugram

Complainant

Versus

M/s Adani M2K Projects LLP
Adani House, Plot no 83,
Sector-32, Institutional Area,
Gurugram

**Respondent
(Promoter)**

Naveen Associates
F-405, New Palam Vihar, Phase-2,
Sector-112, Gurugram

**Respondent
(Real Estate
Agent)**

CORAM:

Shri KK Khandelwal
Shri Samir Kumar

**Chairman
Member**

APPEARANCE:

Shri Amit Aggarwal
Shri Saurabh Kumar

Authorized representatives
for the promoter

Shri Naveen Kumar

Real Estate Agent



ORDER

1. This matter relates to advertise, market, book, sell or offer for sell or invite persons to purchase in any manner any plot, apartment or building, as the case may be in any real estate project or part of it, in any planning area without registering the real estate project with the Real Estate Regulatory Authority established under the Real Estate (Regulation and Development) Act, 2016.
2. It has come to the notice of the authority that an advertisement has been published on online portal i.e., adaniplots.visit.ind.in, dwarkaexpressway.com, 99acres.com and through pamphlets for selling of plots in the residential plotted project under Deen Dayal Jan Awaas Yojna (DDJAY) named "Adani M2K" situated in Sector-102 A Gurugram. Therefore, the project site was visited by team of engineers of the authority, and it was observed that a canopy set up by a real estate agent named "Naveen Associates" has been placed outside the project site for marketing of various projects in that area including Adani M2K (DDJAY) Plots being developed by Adani M2K Projects LLP.



3. The particulars of the project have been detailed in the following tabular form:

S.No.	Heads	Information
1.	Project name and location	"Adani M2K", Sector 102A, Gurugram
2.	Area of project	14.99 acres
3.	Nature of the project	Affordable residential plotted colony (DDJAY)
4.	No. of plots in the project	288
5.	Registered/ not registered	Not registered

4. As per section 3(1) of the Real Estate (Regulation and Development) Act, 2016, prior registration of real estate project with the Real Estate Regulatory Authority is mandated. However, the promoter has not applied for registration of their real estate project with the Haryana Real Estate Regulatory Authority, Gurugram till date. This advertising, marketing, booking, selling or offering for sell or inviting persons to purchase in any manner any plot, apartment or building, as the case may be in any real estate project or part of it, in any planning area without registering the real estate project with the Real Estate Regulatory Authority established under this



Act is violation of section 3 (1) of the Act ibid which provides as under: -

"No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act.

5. During the site visit it was found that the real estate agent "Naveen Associates" is booking the plots in the aforesaid project. The matter was brought to the notice of the authority and as per directions of the authority, a unit was booked by the representative of the authority in the aforesaid project through real estate agent named "Naveen Associates" who has placed the canopy outside the project site having corporate address F-405, New Palam Vihar, Phase-2, Sector-112, Gurugram by giving advance booking amount of Rs 5,00,000 in cash and a cheque of Rs. 6,97,500 in favor of Adani M2K Projects LLP. The real estate agent is indulged in advertising and marketing of the project in the name "Naveen Associates" whereas he is registered in the name "Naveen Kumar" from Haryana Real Estate Regulatory Authority, Panchkula.



6. The Real Estate Agent is involving himself in an unfair trade practices and is booking the plots in the said project by issuing part payment receipts. The books of accounts and receipts issued by the real estate agent are requisite documents. Therefore, the authority in exercise of the powers conferred under section 35(2)(i), read with Rule 8, Rule 13 of the CPC, hereby directed to impound the documents mentioned above. The documents impounded from the real estate agent office are placed before the authority.
7. The above advertising, marketing, selling the plots in the unregistered project without getting registered as real estate agent in the name "Naveen Associates" by the real estate agent is violation of Section 9 (1), 9 (2), 10(a) and 10(c)(i) of the Act ibid which provides as under: -

Section 9 :-

1. "No real estate agent shall facilitate the sale or purchase of or act on behalf of any person to facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being the part of the real estate project registered under section 3, being sold by the promoter in any planning area, without obtaining registration under this section."



2. Every real estate agent shall make an application to the Authority for registration in such form, manner, within such time and accompanied by such fee and documents as may be prescribed.

Section 10 :-

Every real estate agent registered under Section 9 shall-

- (a) Not facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being sold by the promoter in any planning area, which is not registered with the Authority
- (c) not involve himself in any unfair trade practices, namely: -
- (i) the practice of making any statement, whether orally or in writing or by visible representations which-
- (A) falsely represents that the services are of a particular standard or grade;
- (B) represents that the promoter or himself has approval or affiliation which such promoter or himself does not have;
- (C) makes a false or misleading representation concerning the services;

8. Accordingly, a show cause notice no. RERA-GRG-606-2021 dated 29.01.2021 to the promoter and notice no. HARERA/GGM/2021/EE/8 dated 29.01.2021 to the real



estate agent were issued for above violations of the Real Estate (Regulation and Development) Act, 2016, respectively.

9. The authorized representatives of the promoter appeared before the authority and made submissions that reply dated 10.02.2021 to the show cause notice under reference No. RERA-GRG-606-2021 dated 29.01.2021 may be considered. In the reply the promoter has submitted that they have neither launched, developed, advertised or marketed any project in name and style of "Adani M2K" in sector-102A, Gurugram nor sold or booked any plot in the said project. The promoter or any of its employee, directors etc have not published any advertisement nor authorized any person or real estate agent or any website to sell, market the project. The promoter submitted that "Naveen Associates" is not the authorized agent of M/s Adani M2K Projects LLP and no amount of cash or cheque has been received by them from "Naveen Associates". The promoter has obtained only LOI (Letter of intent) on 01.01.2021 for setting up affordable plotted colony (DDJAY-2016) and are in process of completing all formalities for issue of license by DTCP, Haryana and then apply for RERA registration. The representative of the promoter further states



that they have sent a legal notice to the real estate agent named "Naveen Associates" to cease and desist from selling or agreeing to sell, collect monies, representing, marketing and advertising qua any unregistered project or registered project of M/s Adani M2K Projects LLP.

10. Sh. Naveen Kumar, real estate agent appeared before the authority for hearing. He submitted the reply on 01.03.2021 and further stated that he had registered himself as real estate agent with HARERA, Panchkula in the name of "Naveen Kumar" with RERA no. HRERA-PKL-REA-311-2020 dated 15.10.2020. He further stated that he has obtained information of upcoming projects of Deen Dayal Yojna plots in Gurugram from the DTCP website which are in public domain and provided the same information to his clients & prospective clients so that as and when the project opens, they may apply if they wish to. Therefore, it is clear from the submissions of the real estate agent that he is advertising, marketing, selling the plots of unregistered project by collecting information from the public domain.

11. Therefore, the real estate agent has violated the provisions of section 10 of the Real Estate (Regulation and Development)



Act, 2016. This omission of the real estate agent is punishable under section 62 of the Act *ibid*. Section 62 provides as under:

"If any real estate agent fails to comply with or contravenes the provisions of section 9 or section 10, he shall be liable to a penalty of ten thousand rupees for every day during which such default continues, which may cumulatively extend up to five per cent of the cost of plot, apartment or buildings, as the case may be, of the real estate project, for which the sale or purchase has been facilitated as determined by the Authority."

12. As per the receipt book collected from the real estate agent office, 59 plots of different area (i.e., 117 sqyd - 179 sqyd) at an approx. rate of Rs. 64000 per sqyd have been booked in different names i.e., Surender & Sanjay, Nidhi Arora, Surender Phogat, Sumitra Devi, Raj Kiran, Pankaj Yadav, Raj Singh, Ajay Singh, Nidhi Arora, Dr Sunita Patel, Sushma, Ajay Singh, Harish Tanwar, Manju panwar, Geeta Yadav, Ajay Pahwa, Kamlesh Tiwari, Ajay Pahwa, Ajay Pahwa, Mrs. Phoola, Kapil Dhawan, Nikhil Grewal, Krishan Kumar, Joy Anumanjan, Kamlesh Tiwari, Satish, Sombeer, Jagdev Singh, Nitesh (Truvisory Infratech), Aditi Tiwari, Pawan Kumar, Nirmala Vashist, Achhey Lal Prasad, Vijay Kumar, Baljeet Singh, Hari Dalal,



Ranbir Singh, Alok Kumar, Sunil Sareen, Krishan Sharma, Ranbir Singh, Satish Yadav, Sonali, Poonam Tiwari, Uma Tuteja, Sunil Kumar Arya. As per the receipt book the first booking was taken on 28.09.2020 and last booking has been taken on 14.01.2021 means the real estate agent has been booking the plots for last 109 days. As per section 62 of the Real Estate (Regulation and Development) Act, 2016, the real estate agent shall be liable to a penalty of ten thousand rupees for every day during which such default continues, which may cumulatively extend up to five per cent of the cost of plot of the real estate project, for which the sale or purchase has been facilitated.

13. Therefore, the authority decides to impose a penalty of Rs. Ten Thousand (10,000/-) per day for 109 days which comes out to be Rs. Ten Lakh Ninety Thousand (10,90,000/-) on the real estate agent which shall be deposited with the authority and shall be credited in the government account within a prescribed period as per rules. Further the real estate agent is directed to refund the amount collected from the persons against booking of plot in the above project.



14. The authority directs the promoter to submit an affidavit regarding the submission made before the authority and the promoter is warned not to issue any advertisement of any project before getting it registered with the authority. The promoter is further directed to comply with the provisions of the Real Estate (Regulation and Development) Act, 2016. The promoter shall give affirmative assurance on an affidavit that whenever he launches the project in question, he shall get the same registered as per the provisions of law. Further the promoter is directed that no allotment through this agent in the above-mentioned names on the basis of booking done by him shall be entertained as and when the project is launched after registration of the same.
15. Secretary of the authority to inform the relevant authorities if required.
16. The matter is disposed off. File be consigned to registry.

-sd-
(Samir Kumar)
Member

-sd-
(Dr. KK Khandelwal)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 01.03.2021

